



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 06742-99
10 February 2000

SSGT [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 27 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6742-44
IN REPLY REFER TO:
1610
MMER/PERB
OCT 27 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
STAFF SERGEANT [REDACTED], USMCR

Ref: (a) SSgt [REDACTED] DD Form 149 of 6 Apr 99
(b) MCO P1610.7D w/Ch 1-2

Encl: (1) Completed Fitness Report 970501 to 970731 (AR)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 2 June 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970501 to 970731 (AR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the marks in Section B and the comments in Section C do not reflect the mitigating circumstances that the Reporting Senior was not aware of at the time the report was prepared. To support his appeal, the petitioner furnishes a statement from the Reporting Senior of record ([REDACTED])

3. In its proceedings, the PERB concluded that:

a. The letter from Major [REDACTED] does nothing to either refute the accuracy of the challenged fitness report nor to add any "mitigating circumstances." That Major [REDACTED] believes the report should not be considered "adverse" is viewed as his misunderstanding of the provisions of reference (b) rather than a disagreement with the substantive issue.

b. When the fitness report was initially received by this Headquarters, it was determined to be "adverse" and an attempt was made to obtain the petitioner's acknowledgement/rebuttal. However, when no response was received, the report was filed in the petitioner's OMPF reflecting the foregoing effort.

c. The PERB determined that the petitioner should be afforded another opportunity to provide an official rebuttal and directed the accomplishment of that action. The petitioner responded and his concerns/disagreements have been adjudicated by the Reviewing Officer (Lieutenant Colonel [REDACTED])

(3) PERB

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STAFF SERGEANT [REDACTED] USMCR

We specifically note that Lieutenant Colonel [REDACTED] has agreed with the Reporting Senior's evaluation and provided his own in-depth evaluation.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as reflected in the enclosure, should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps